

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 2:05CR155-MHT
)	
LEIGH ROHAN)	

UNITED STATES' RESPONSE TO
DEFENDANT'S MOTION TO AMEND SENTENCE

Comes now the United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and hereby requests that this Honorable Court to deny Defendant's Motion to Amend Sentence. As grounds in support of this motion, the United States sets forth the following:

FACTS

The United States adopts Rohan's factual basis as established in her Memorandum of Law filed February 1, 2008. Currently, Rohan petitions this Honorable Court to "amend" its sentence and make a "recommendation to the Bureau of Prisons concerning the type of 'prison facility' to place Rohan in the last six months of her sentence." As Rohan essentially concedes, this Honorable Court is without any legal authority to amend her sentence and provide the requested relief.

ANALYSIS

Rule 35(a), Federal Rule of Criminal Procedure allows for "Correcting or Reducing a Sentence." According to the Rule, within seven (7) days after sentencing, the court may correct a sentence that resulted from an arithmetical, technical, or other clear error. Rohan was sentenced on February 6, 2006; therefore, Rule 35(a) provides no relief.

Although Title 18, United States Code Section 3621(b) governs the place of imprisonment

for convicted persons, a plain reading of § 3621(b), indicates that the Bureau of Prisons alone “shall designate the place of the prisoner’s imprisonment.” Even if § 3621(b) requires that the Bureau of Prisons consider “any statement by the court that imposed the sentence” - the statute gives no authority to the Court to later “amend” its sentence and make a recommendation concerning imprisonment.

Likewise, Title 18, United States Code Section 3624(c) governs pre-release custody. A plain reading of § 3624(c) grants no authority to the Court to “amend” a sentence and recommend a place of imprisonment.

Finally, Rohan herself admits her argument for an “amended” sentence “*doesn’t look good.*” See Rohan Memorandum of Law at p. 4. Indeed, none of Rohan’s citations stand for the proposition that this Honorable Court has any legal authority to “amend” a sentence and recommend placement to a particular facility.

In conclusion, the absence of any legal authority precludes this Honorable Court from providing Rohan the relief she seeks. Therefore, Rohan’s Motion is due to be DENIED.

Respectfully submitted this 15th day of February, 2008.

LEURA G. CANARY
UNITED STATES ATTORNEY

/s/ Verne H. Speirs
VERNE H. SPEIRS
Assistant United States Attorney
131 Clayton Street
Montgomery, Alabama 36104-3429
(334) 223-7280
(334) 223-7138 Fax
verne.speirs@usdoj.gov

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 2:05CR155-MHT
)	
LEIGH ROHAN)	

CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Paul Cooper, Esquire.

Respectfully submitted,

LEURA G. CANARY
UNITED STATES ATTORNEY

/s/ Verne H. Speirs
VERNE H. SPEIRS
Assistant United States Attorney
131 Clayton Street
Montgomery, Alabama 36104-3429
(334) 223-7280
(334) 223-7135 Fax
verne.speirs@usdoj.gov